

## **REMARKS**

### **I. Overview**

Claims 1 – 37 are pending in the application. Applicant thanks Examiner for indicating claims 4, 16 and 28 contain allowable subject matter. The following are issues raised in the current Office Action:

- 1) The disclosure is objected to because of informalities.
- 2) Claims 10, 22, and 34 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.
- 3) Claims 1 – 3, 5 – 15, 17 – 27, and 29 – 37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,793,333 (filed Dec. 11, 2000, issued Jul. 13, 2004) to Jones et al. (hereinafter “Jones”) in view of U.S. Patent 6,493,695 to Pickering (filed Sep. 29, 1999, issued Dec. 10, 2002) (hereinafter “Pickering”).
- 4) Claims 4, 16 and 28, are objected to as being dependent on a rejected base claim.

Applicants traverse the current rejections and respectfully request reconsideration and withdrawal of the rejections in light of the remarks contained herein.

### **II. Objections to the Specification**

Examiner has objected to the specification because of missing application numbers. In response, Applicant has amended the specification to recite the relevant application numbers.

### **III. Rejections Under 35 U.S.C. § 112**

Examiner has rejected claims 10, 22 and 34 as being indefinite because “Applicant claims that the escalation criteria are predetermined escalation criteria [and] further defines the escalation criteria are variable. . . .” Office Action, page 2. In response to this rejection,

claims 10, 22 and 34 have been amended. Amended claim 10 recites, “changing the set of predetermined escalation criteria during the responding step.” Claim 22 now recites “means for changing the set of predetermined escalation criteria when the means for responding are activated.” Amended claim 34 recites “means for changing the set of predetermined escalation criteria while the first designated agent responds to the aged communication.” In view of these amendments, Applicant respectfully requests that Examiner withdraws the rejection, under 35 U.S.C. § 112, of claims 10, 22 and 34.

#### IV. Rejections Under 35 U.S.C. § 103

The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. M.P.E.P. § 2142; *In re Peehs*, 612 F.2d 1287, 204 USPQ 835, 837 (CCPA 1980). In an obviousness rejection, “[u]nder § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.” *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 15 - 17 (1966). With regard to the claims rejected under 35 U.S.C. § 103(a) in the current application, the Office Action does not show that claims 1 – 3, 5 – 15, 17 – 27 and 29 – 37 are obvious under the framework set out in *Graham*. The current Office Action does not reflect that the content of the applied art and the differences between the applied art and the claims at issue have been properly ascertained. *See United States v. Adams* 383 U.S. 39, 48 (holding that the Government erred in concluding that wet batteries are old in the art because, among other things, “the fact that the Adams battery is water-activated sets his device apart from the prior art.”) The rejected claims are considered below.

##### A. Independent Claims

##### 1. Claim 1

Claim 1 recites, “extracting an aged communication . . . .” Claim 13 recites “means for extracting an aged communication . . . .” Claim 25 recites “an aged communication is extracted . . . .” Examiner cites to Jones, col. 6, lines 41 – 53 and col. 11, lines 42 – 48 as teaching these limitations of claims 1, 13 and 25. Office Action, page 3. Col. 6, lines 41 – 53 of Jones, however, provides that service center personnel **generates a trouble report or ticket** and then **transmits the trouble ticket** to a ticket reporting and tracking system. After

transmission of the trouble ticket to the ticket reporting and tracking system, there is no teaching that the trouble ticket is extracted from the tracking system. Rather, information pertaining to the trouble ticket may be sent to management in a notification. *See* col. 11, lines 39 – 50. The sending of information pertaining to a trouble ticket is not extracting the trouble ticket. Therefore, Examiner has not shown that Jones teaches extracting as required by claims 1, 13 and 25.

Claims 1, 13 and 15 requires that a **communication** be extracted. Communication means “a non-realtime communication such as fax, voicemail, email or callback request . . . .” Specification, paragraph [0010]. Jones teaches that **information** contained in the trouble ticket may be sent in a notification. Col. 6, lines 49 – 53. This information, however, is not a communication as defined in the specification and recited in the claims. *See* M.P.E.P. § 2111 (instructing that during patent examination the claims must be interpreted in light of the specification). Examiner does not rely on Pickering as teaching the limitations of claims 1, 13 and 25 and Applicant’s review of this art does not reveal it teaches these limitations. In sum, Examiner has not shown that the applied art teaches the limitations of claims 1, 13 and 25 requiring extracting an aged communication.

Claim 1 requires “routing the aged communication . . . .” Claim 13 requires “means for routing the aged communication . . . .” Similarly, claim 25 recites, “the escalation service routes the aged communication . . . .” Examiner cites to Jones col. 11, lines 39 – 41 as teaching these limitations of claims 1, 13 and 25. Office Action, page 3. However, the cited portion of Jones does not teach the limitations at issue. Rather, Jones teaches a system “to **send notification** to an appropriate management level based on the time the trouble ticket has not been resolved.” Col. 11, lines 44 – 45 (emphasis added). When a notification is sent, the notification is created just prior to sending. *See* col. 11, lines 39 – 41. Sending this newly created notification does not teach routing an actual aged communication. In fact, it does not even teach the routing of the trouble ticket because Jones specifically discloses that the notification may contain information **similar** to that contained in the ticket. *See* col. 11, lines 49 – 61. To send a notification containing information similar to that contained in the ticket is not the same as routing the ticket. Further, Examiner does not rely on Pickering as teaching these limitations of claims 1, 13 and 25 and Applicant’s review of this art does not

reveal it teaches these limitations. Examiner, therefore, has not shown Jones, teaches the limitations of claims 1, 13 and 25 requiring the routing of aged communication.

Claim 1 requires “presenting the aged communication to the first designated agent . . . .” Claim 13 requires “means for presenting the aged communication to the first designated agent . . . .” Similarly, claim 25 recites, “the aged communication is displayed on a desktop of a first designated agent . . . .” Examiner cites to Jones, col. 12, lines 9 – 16 and col. 15, lines 19 – 22 and Pickering col. 10, lines 47 – 53 as teaching these limitations of claim 1, 13 and 25. Office Action, pages 3 – 4. The cited portion of Jones teaches notification of management by page. However, as discussed above, notification in Jones is not an aged communication as claimed. Because the notification is not an aged communication, Jones does not teach these and further aspects of claims 1, 13 and 25 requiring an aged communication.

Claim 1 requires “responding to the aged communication, wherein the first designated agent answers the aged communication . . . .” Claim 13 recites, “means for responding to the aged communication, wherein the first designated agent answers the aged communication . . . .” Claim 25 recites, “the first designated agent provides an immediate response to the aged communication . . . .” Examiner concedes Jones does not teach “the first designated agent answers the aged communication on the desktop.” Office Action, pages 3 – 4. To cure the conceded deficiency of Jones, Examiner asserts, “Pickering taught responding to the aged communication, wherein the first designated agent answers the aged communication on the desktop . . . .” Office Action, page 4. However, Pickering does not teach the first designated agent answers an aged communication. Rather, Pickering teaches queuing customer interactions based on data in a generic data structure. *See* Pickering, Fig. 3 & col. 10, lines 41 – 53 (providing “The link (e.g., pointer) to the customer interaction within the generic data structure is then used to retrieve the customer interaction with which the routed generic data structure is associated . . . .” Pickering col. 10, lines 37 – 40). Nowhere in the cited portion of Pickering does it teach an aged communication. Thus, Pickering does not teach the first designated agent answers an aged communication. Similarly, Examiner has not shown that Pickering teaches, means for responding to the aged communication, where the first designated agent answers the aged communication or the first designated agent

provides an immediate response to the aged communication as required by claims 13 and 25 respectively.

In sum, Examiner has not shown that the applied art renders claims 1, 13 and 25 obvious because the content of the applied art and the differences between the applied art and claims 1, 13 and 25 have not been properly ascertained. Accordingly, Applicant respectfully requests that Examiner withdraws the rejection, under 35 U.S.C. § 103, of claims 1, 13 and 25.

#### **V. Dependent Claims**

Claims 2, 3 and 5 – 12 depend from claim 1, claims 14, 15 and 17– 24 depend from claim 13 and claims 26, 27 and 29 – 37 depend from claim 25. As discussed above, claims 1, 13 and 25 are patentable over the applied art. The dependent claims inherit all the limitations from their respective independent claims. For at least this reason, claims 2, 3, 5 – 12, 14, 15, 17 – 24, 26, 27 and 29 – 37 are patentable over the applied art. Moreover, the dependent claims themselves recite new and unobvious limitations that Examiner has not shown is taught in the applied art.

For example, claims 3, 15 and 27 recite, “the communication is designated as immediate . . . .” Examiner cites to Jones, col. 11, lines 30 -31 and col. 14, lines 7 – 10 as teaching this limitation of claims 3, 15 and 27. However, the cited portions of Jones only teach paging and alerting if a trouble report is not received from any service center for more than a certain period of time and the recording of the age that a ticket must be before an alert is sent. Nowhere in the cited portions of Jones is there a teaching that an aged communication is designated immediate. Examiner does not rely on Pickering as teaching this limitation of claims 3, 15 and 27 and Applicant’s review of this art does not reveal it teaches this limitation. Thus, Examiner has not shown that the applied art teaches an aged communication is designated as immediate.

Claims 5 and 17 recite, “monitoring the aged communication displayed on the first designated agent’s desktop . . . .” Examiner cites to Jones, col. 11, lines 42 – 48 as teaching this limitation of claims 5 and 17. Jones, col. 11, lines 46 – 48 teaches that for increasing durations of non-resolution, a notification may be sent to higher levels of management.

There is no teaching in Jones of monitoring an aged communication displayed on a first designated agent's desktop. Rather, in Jones, the total time the trouble ticket has not been resolved is monitored. *See* col. 11, lines 41 – 48. Examiner does not rely on Pickering as teaching this limitation of claim 5 and 17 and Applicant's review of this art does not reveal it teaches this limitation.

Further, claims 5, 17 and 29 recite, "when the first designated agent does not answer the aged communication, the immediate workflow routes the aged communication to a second designated agent." Examiner cites to Jones, col. 11, lines 42 – 48 as teaching this limitation of claims 5, 17, and 29. In Jones, however, the action taken if a trouble ticket is not resolved by a certain period of time is the sending of a notification to higher levels of management. Jones, col. 11, lines 46 – 48. Examiner does not rely on Pickering as teaching this limitation of claims 5, 17 and 29 and Applicant's review of this art does not reveal it teaches this limitation. Examiner, therefore, has not shown that the applied art teaches the limitation "when the first designated agent does not answer the aged communication, the immediate workflow routes the aged communication to a second designated agent."

Claims 6, 18 and 30 recite, "sending an acknowledgment message when the first and second designated agents are unavailable." Examiner cites to Pickering, col. 8, lines 2 – 6 and col. 9, lines 55 – 60 as teaching this limitation. However, the cited portions of Pickering only teach routing of generic data based on availability and the routing of incoming interactions to an outbound agent of a call center. Routing an incoming interaction to an agent of the call center is different from sending an acknowledgement message. Examiner does not rely on Jones as teaching this limitation of claims 6, 18 and 30 and Applicant's review of this art does not reveal it teaches this limitation. Thus, Examiner has not shown that the applied art teaches, "sending an acknowledgment message when the first and second designated agents are unavailable."

Claims 9, 21 and 32 recite, "wherein the aged communication is routed to the second designated agent after the first designated agent answers . . . ." Examiner rejects claims 9, 21 and 32 (Applicant assumes Examiner meant 32 instead of 33 because 32 recites language similar to claim 9 and 21) by citing Jones col. 11, lines 46 – 48 and asserting that declining to respond equates with leaving unresolved. *See* Office Action, page 5. The cited section of

Jones, however, teaches that “[i]ncreasing durations of **non-resolution** . . . may be sent to higher levels of management or service personnel. *Id.* (emphasis added). “Non-resolution” is not the same as “declining to respond” as Examiner asserts. It is possible to not resolve without declining to respond. As this difference has not been analyzed as required under *Graham*, the current rejections of claims 9, 21 and 32 are not proper.

Claims 11, 23 and 35 recite, “wherein the first and second designated agents may select non-realtime communications from the plurality of shared file folders that are not designated as aged, and further wherein the first and second designated agents respond to those non-realtime communications not designated as aged.” Examiner cites to Jones col. 6, lines 46 – 49 as teaching this limitation. The cited portion of Jones provides, “Subsequent to the initial entry, service center personnel may **access** the trouble ticket and **transfer ticket information** to the ticket reporting and tracking system 10, for example to update the trouble ticket status.” (Emphasis added). This citation to Jones does not teach a first and second designated agent responds to non-realtime communications not designated as aged. Rather, Jones teaches that service center personnel may access and transfer ticket status information. This is distinct from “wherein the first and second designated agents respond to those non-realtime communications not designated as aged.” Examiner does not rely on Pickering as teaching this limitation of claims 11, 23 and 35 and Applicant’s review of this art does not reveal it teaches this limitation.

In sum, Examiner has not shown that dependent claims 2, 3, 5 – 12, 14, 15, 17 – 24, 26, 27 and 29 – 37 are rendered obvious by the combination of Jones and Pickering. Accordingly, Applicant respectfully requests that Examiner withdraw the rejections, under 35 U.S.C. § 103, of claims 2, 3, 5 – 12, 14, 15, 17 – 24, 26, 27 and 29 – 37.

#### **VI. Objection to Claims 4, 16 and 28**

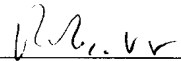
Claims 4, 16 and 28 have been objected to as being dependent on a rejected base claim. In view of the remarks above with regard to the independent claims from which claims 4, 16 and 28 depend, Applicant believes claims 4, 16 and 28 are patentable as written. Accordingly, Applicant respectfully requests that Examiner withdraw the objection to claims 4, 16 and 28.

**VII. Conclusion**

In view of the above, Applicant believes the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 47524/P152CP1/10613139 from which the undersigned is authorized to draw.

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Respectfully submitted,

By 

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